

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN  
GREEN BAY DIVISION**

UNITED STATES OF AMERICA and	)	
THE STATE OF WISCONSIN,	)	Civil Action No. 1:10-CV-00910
	)	Hon. William C. Griesbach
Plaintiffs,	)	
	)	
v.	)	
	)	
NCR CORPORATION, et al.,	)	
	)	
Defendants.	)	
	)	

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**MENASHA CORPORATION'S NOTICE OF ERRATA  
FOR DOCUMENTS 543, 544, 545 and 546**

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Menasha Corporation ("Menasha"), by its undersigned counsel, hereby provides this Notice of Errata as to the following corrections which should be made to the documents identified below (Dkt. 543, Dkt. 544, Dkt. 545 and Dkt. 546).<sup>1</sup> Corrected versions of these documents are being filed concurrently with this Notice of Errata, including a Corrected Declaration of David A. Rabbino which attaches one corrected excerpted document (Corrected Attachment 21) and three additional excerpted documents (Attachments 32, 33 and 34) that were inadvertently omitted from the Declaration of David A. Rabbino dated October 9, 2012 (Dkt. 543). Each of these four documents are in the Certified Administrative Record. All of the corrections made pursuant to this Notice of Errata are citation changes or additions only. Attachments 1 - 20 (Dkt. 543-1 to 543-20) and Attachments 22 - 31 (Dkt. 543-22 to 543-31) to the Corrected Declaration of David A. Rabbino are not being re-filed, as they remain the same.

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<sup>1</sup> Record citations to materials in the District Court docket are referenced in this brief by the docket number and page number applied by the District Court's Electronic Case Filing system ("Dkt. at").

A. Corrections to Declaration of David A. Rabbino (Dkt. 543):

1. Paragraph 29 starting on page 7 which currently states “A true and correct copy of excerpts from the *Final FS* from the Administrative Record has been filed at Dkt. 507-5 to 507-8” should state:

A true and correct copy of excerpts from the *Final FS* from the Administrative Record has been filed at Dkt. 507-5 to 507-8, and additional excerpts are in **Attachment 32** to this Declaration.

**Attachment 32** is attached to the Corrected Declaration of David A. Rabbino, filed concurrently with this Notice of Errata.

2. Paragraph 32 starting on page 8 which currently states “An excerpt of the *wLFRM Model Documentation Report* is **Attachment 21** to this Declaration” should state:

An excerpt of the *wLFRM Model Documentation Report* is **Corrected Attachment 21** to this Declaration.

**Corrected Attachment 21** is attached to the Corrected Declaration of David A. Rabbino, filed concurrently with this Notice of Errata.

3. Paragraph 38 starting on page 9 which currently states “The *2002 Responsiveness Summary* has been filed at 507-14” should state:

The *2002 Responsiveness Summary* has been filed at 507-14 and 507-15.

4. Paragraph 43 on page 10 which currently states “The BODR was included in the Certified Administrative Record at EPAAR176732 and an excerpt has been filed at Dkt. 439-7” should state:

The BODR was included in the Certified Administrative Record at EPAAR176732 and an excerpt has been filed at Dkt. 439-7, and additional excerpts are in **Attachment 33** to this Declaration.

**Attachment 33** is attached to the Corrected Declaration of David A. Rabbino, filed concurrently with this Notice of Errata.

5. After Paragraph 50 on page 12, an additional Paragraph should state:

51. On April 12, 1999, the FRG submitted Volume 1 *Comments of the Fox River Group on the Wisconsin Department of Natural Resources' Draft Remedial Investigation, Baseline Human Health and Ecological Risk Assessment and Draft Feasibility Study for the Lower Fox River* ("April 12, 1999, FRG Comments on RI/FS, Vol. 1"). The April 12, 1999, FRG Comments on RI/FS, Vol. 1 was included in the Certified Administrative Record at WDNR020000181. A true and correct copy of excerpts of the April 12, 1999, FRG Comments on RI/FS, Vol. 1 is **Attachment 34** to this Declaration.

**Attachment 34** is attached to the Corrected Declaration of David A. Rabbino, filed concurrently with this Notice of Errata.

B. Corrections to Menasha Corporation's Memorandum in Opposition to Plaintiffs' Motion for Partial Summary Judgment on the Propriety of the Remedy Sought to be Enforced in the Fifth Claim for Relief and in Support of Certain Defendants' Cross-Motion for Summary Judgment on the Selected Remedy (Dkt. 544):

6. The portion of page 11 which currently states "For Lake Ontario, the Gobas Model Documentation used an average water temperature of 50 degrees Fahrenheit (8 degrees Celsius) (*Id.* at 12), an 18 degree Fahrenheit lower average temperature than used in the FRFood model." should state:

For Lake Ontario, the Gobas Model Documentation used an average water temperature of 50 degrees Fahrenheit (8 degrees Celsius) (*id.* at 12), an 18 degree Fahrenheit lower average temperature than used in the FRFood model. ASUFs 75-76.

7. The portion of page 14 which currently states "There is no dispute that the purpose of the Model was to 'prepare long-term projections of the trend and magnitude of PCB concentrations in the river for a range of different sediment management cases.' ASUF 73." should state:

There is no dispute that the purpose of the Model was to "prepare long-term projections of the trend and magnitude of PCB concentrations in the river for a range of different sediment management cases." ASUF 70.

8. The portion of page 17 which currently states "In 1999, the U.S. Department of the Interior ("DOI") sent WDNR a letter stating that EPA and WDNR's low cost estimate 'appears to be unrealistic compared to virtually every other site in the U.S.' ASUF 142." should state:

In 1999, the U.S. Department of the Interior (“DOI”) sent WDNR a letter stating that EPA and WDNR’s low cost estimate “appears to be unrealistic compared to virtually every other site in the U.S.” ASUF 147.

9. The portion of page 18 which currently states “Simply put, in warmer water temperatures, fish consume more. ASUF 75.” should state:

Simply put, in warmer water temperatures, fish consume more. ASUFs 75-76.

10. The portion of page 20 which currently states “Importantly, the log  $K_{ow}$  value used by WDNR in the modeling for OUs 1-4 resulted in a dredging remedy while the log  $K_{ow}$  value used by WDNR in the modeling for OU 5 resulted in a monitored natural attenuation remedy with no dredging.” should state:

Importantly, the log  $K_{ow}$  value used by WDNR in the modeling for OUs 1-4 resulted in a dredging remedy while the log  $K_{ow}$  value used by WDNR in the modeling for OU 5 resulted in a monitored natural attenuation remedy with no dredging. *See* ASUF 119.

11. The portion of page 20 which currently states “Nothing in the Administrative Record explains the failure to use the same log  $K_{ow}$  value for both the GBFood model and the FRFood model.” should state:

Nothing in the Administrative Record explains the failure to use the same log  $K_{ow}$  value for both the GBFood model and the FRFood model. ASUF 102.

C. Corrections to Certain Defendants’ Response to Statement of Material Undisputed Facts in Support of Plaintiffs’ Motion for Partial Summary Judgment on the Propriety of the Remedy Sought to be Enforced in the Fifth Claim for Relief (Dkt. 545):

12. Certain Defendants’ response to Plaintiffs’ SUF 1, subsection (1) on page 3 which currently states “(see Declaration of David A. Rabbino (“Rabbino Decl.”) ¶ 29 & Dkt. 507-5 to 507-8)) (“*Final FS*”) at WDNR060001473” should state:

(see Declaration of David A. Rabbino (“Rabbino Decl.”) ¶ 29 & Dkt. 507-5 to 507-8 & Att. 32) (“*Final FS*”) at WDNR060001473

13. Certain Defendants’ response to Plaintiffs’ SUF 1, subsection (3) on page 3 which currently states “*2003 ROD* (Dkt. 404-2) at EPAAR001202” should state:

*2003 ROD* (Dkt. 404-2) at WDNR124002278

14. Certain Defendants’ response to Plaintiffs’ SUF 1, subsection (3) on page 3 which currently states “*BODR* (Dkt. 439-7) at EPAAR176834” should state:

*BODR* (Rabbino Decl. ¶ 43 & Att. 33) at EPAAR176834

15. Footnote 4 at the bottom of page 3 which currently states “(Rabbino Decl. ¶ 43 & Dkt. 439-7) (“*BODR*”) at EPAAR177657, EPAAR176834” should state:

(Rabbino Decl. ¶ 43 & Dkt. 439-7 & Att. 33) (“*BODR*”) at EPAAR177657, EPAAR176834

16. Certain Defendants’ response to Plaintiffs’ SUF 10 on page 14 which currently states “*Final FS* (Dkt. 507-5 to 507-8) at WDNR060001473” should state:

*Final FS* (Rabbino Decl. ¶ 29 & Att. 32) at WDNR060001473

17. Certain Defendants’ response to Plaintiffs’ SUF 10 on page 14 which currently states “*2003 ROD* (Dkt. 404-2) at EPAAR001202” should state:

*2003 ROD* (Dkt. 404-2) at WDNR124002278

18. Certain Defendants’ response to Plaintiffs’ SUF 10 on page 14 which currently states “*BODR* (Dkt. 439-7) at EPAAR176834” should state:

*BODR* (Rabbino Decl. ¶ 43 & Att. 33) at EPAAR176834

19. Certain Defendants’ response to Plaintiffs’ SUF 32 on page 31 which currently states “or the *Explanation of Significant Differences: OU 2, OU 3, OU 4, and OU 5 (River Mouth) Lower Fox River and Green Bay Site* (Feb. 2010) (included in the Certified Administrative Record at EPAAR185211) (Rabbino Decl. ¶ 48 & Dkt. 147-1) (“*2020 ESD*”)” should state:

or the *Explanation of Significant Differences: OU 2, OU 3, OU 4, and OU 5 (River Mouth) Lower Fox River and Green Bay Site* (Feb. 2010) (included in the Certified Administrative Record at EPAAR185211) (Rabbino Decl. ¶ 48 & Dkt. 147-1) (“2010 ESD”)

20. Certain Defendants’ response to Plaintiffs’ SUF 32 on page 31 which currently states “2007 ROD Amendment (Dkt. 404-3) at EPAAR001534” should state:

*2007 ROD Amendment* (Dkt. 404-3) at EPAAR180123

21. Certain Defendants’ response to Plaintiffs’ SUF 32 on page 31 which currently states “*See 2003 ROD* (Dkt. 404-2) at EPAAR001148” should state:

*See 2003 ROD* (Dkt. 404-2) at WDNR124002224

22. Certain Defendants’ response to Plaintiffs’ SUF 32 on page 34 which currently states “*Final FS* (Dkt. 507-5 to 507-8) at WDNR060001473” should state:

*Final FS* (Rabbino Decl. ¶ 29 & Att. 32) at WDNR060001473

23. Certain Defendants’ response to Plaintiffs’ SUF 32 on page 34 which currently states “2003 ROD (Dkt. 404-2) at EPAAR001202” should state:

*2003 ROD* (Dkt. 404-2) at WDNR124002278

24. Certain Defendants’ response to Plaintiffs’ SUF 32 at page 34 which currently states “*BODR* (Dkt. 439-7) at EPAAR176834” should state:

*BODR* (Rabbino Decl. ¶ 43 & Att. 33) at EPAAR176834

25. Certain Defendants’ response to Plaintiffs’ SUF 43 on page 45 which currently states “2007 ROD Amendment (Dkt. 404-3) at EPAAR001534” should state:

*2007 ROD Amendment* (Dkt. 404-3) at EPAAR180123

26. Certain Defendants’ response to Plaintiffs’ SUF 43 on page 45 which currently states “2003 ROD (Dkt. 404-2) at EPAAR001148” should state:

*2003 ROD* (Dkt. 404-2) at WDNR124002224

27. Certain Defendants' response to Plaintiffs' SUF 50 on page 50 which currently states  
“*BODR* (Dkt. 439-7) at EPAAR176911” should state:

*BODR* (Rabbino Decl. ¶ 43 & Att. 33) at EPAAR176911

28. Certain Defendants' response to Plaintiffs' SUF 50 on page 50 which currently states  
“*BODR* (Dkt. 439-7) at EPAAR176937-38” should state:

*BODR* (Rabbino Decl. ¶ 43 & Att. 33) at EPAAR176937-38

29. Certain Defendants' response to Plaintiffs' SUF 63 on page 53 which currently states  
“*2007 ROD Amendment* (Dkt. 404-3) at EPAAR185221-22” should state:

*2007 ROD Amendment* (Dkt. 404-3)

30. Certain Defendants' response to Plaintiffs' SUF 63 on page 53 which currently states  
“*2007 ROD Amendment* (Dkt. 404-3) at EPAAR001521” should state:

*2007 ROD Amendment* (Dkt. 404-3) at EPAAR180110

31. Certain Defendants' response to Plaintiffs' SUF 63 on page 54 which currently states  
“*2007 ROD Amendment* (Dkt. 404-3) at EPAAR001529-30” should state:

*2007 ROD Amendment* (Dkt. 404-3) at EPAAR180118-19

32. Certain Defendants' response to Plaintiffs' SUF 64 on page 55 which currently states  
“*2007 ROD Amendment* (Dkt. 404-3) at EPAAR001521” should state:

*2007 ROD Amendment* (Dkt. 404-3) at EPAAR180110

33. Certain Defendants' response to Plaintiffs' SUF 64 on page 56 which currently states  
“*2007 ROD Amendment* (Dkt. 404-3) at EPAAR001529-30” should state:

*2007 ROD Amendment* (Dkt. 404-3) at EPAAR180118-19

34. Certain Defendants' response to Plaintiffs' SUF 69 on page 58 which currently states  
“*2007 ROD Amendment* (Dkt. 404-3) at EPAAR001521” should state:

*2007 ROD Amendment* (Dkt. 404-3) at EPAAR180110

35. Certain Defendants' response to Plaintiffs' SUF 69 on page 59 which currently states  
"2007 ROD Amendment (Dkt. 404-3) at EPAAR001529-30" should state:

*2007 ROD Amendment* (Dkt. 404-3) at EPAAR180118-19

36. Certain Defendants' response to Plaintiffs' SUF 70 on page 60 which currently states  
"2007 ROD Amendment (Dkt. 404-3) at EPAAR001521" should state:

*2007 ROD Amendment* (Dkt. 404-3) at EPAAR180110

37. Certain Defendants' response to Plaintiffs' SUF 70 on page 61 which currently states  
"2007 ROD Amendment (Dkt. 404-3) at EPAAR001529-30" should state:

*2007 ROD Amendment* (Dkt. 404-3) at EPAAR180118-19

D. Corrections to Certain Defendants' Additional Statement of Material Undisputed Facts in Opposition to Plaintiffs' Motion for Partial Summary Judgment on the Propriety of the Remedy Sought to be Enforced in the Fifth Claim for Relief and in Support of Certain Defendants' Cross-Motion for Summary Judgment on the Remedy Selected by the Plaintiffs (Dkt. 546):

38. Paragraph 6 on page 2 which currently states "Rabbino Decl. ¶ 29 & Dkt. 507-5 to 507-8" should state:

Rabbino Decl. ¶ 29 & Att. 32 & Dkt. 507-5 to 507-8

39. Paragraph 28 on page 11 which currently states "Rabbino Decl. ¶ 43, Dkt. 439-7" should state:

Rabbino Decl. ¶ 43 & Att. 33 & Dkt. 439-7

40. Paragraph 66 on page 29 which currently states "Rabbino Decl. ¶ 38, Dkt. 507-14" should state:

Rabbino Decl. ¶ 38, Dkt. 507-15

41. Paragraph 75 starting on page 33 which currently states " ("LFRGB Model Documentation, Inputs & Results") is Attachment 35 to the Rabbino Declaration" should state:



(“*LFRGB Model Documentation, Inputs & Results*”) is Attachment 24 to the Rabbino Declaration.

42. Footnote 7 to paragraph 143 on page 67 which currently states “Rabbino Decl. ¶ 43, Dkt. 439-7” should state:

Rabbino Decl. ¶ 43 & Att. 33 & Dkt. 439-7

43. Paragraph 6 on page 72 which currently states “Dkt. No. 507 at Att. 13” should state:

Rabbino Decl. ¶ 24, Dkt. 507-13

44. Paragraph 14 on page 74 which currently states “*See, e.g.* Rabbino Decl. ¶ 26 & Att. 18” should state:

*See, e.g.*, Rabbino Decl. ¶ 25 & Att. 17

45. Paragraph 19 on page 76 which currently states “Decl. Att. ¶29 [2003 ROD] at EPAAR001078” should state:

Rabbino Decl. ¶ 42, Dkt. 404-2 [2003 ROD] at WDNR124002154

46. Paragraph 24 on page 77 which currently states “Rabbino Decl. ¶ 26 & Att. 18” should state:

Rabbino Decl. ¶ 21 & Att. 14

47. Paragraph 27 on page 78 which currently states “*Id.* at EPAAR001530” should state:

Dkt. 404-3 [2007 ROD Amendment] at EPAAR180118-19

48. Paragraph 28 on page 78 which currently states “Rabbino Decl. ¶ 45, Dkt. 404-3” should state:

Rabbino Decl. ¶ 46, Dkt. 507-19

49. Paragraph 33 beginning on page 79 which currently states “Decl. Att. \_\_\_ [White Paper 22] at EPAAR001459” should state:

Rabbino Decl. ¶ 39 & Att. 26 [White Paper 22] at EPAAR001459

50. Paragraph 33 beginning on page 80 which currently states “[April 12, 1999, FRG Comments on RI/FS, Vol. I, WDNR020000181] at WDNR020000200” should state:

Rabbino Decl. ¶ 51 & Att. 34 [April 12, 1999, FRG Comments on RI/FS, Vol. 1 WDNR020000181] at WDNR020000200.

Dated: October 15, 2012

Respectfully submitted,

s/ Philip C. Hunsucker

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